

BEFORE NANCY KEENAN, SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF MONTANA

* * * * *

TERI LYNN ADAMS,

Appellant,

VS ■

MUSSELSELL COUNTY
TRANSPORTATION COMMITTEE,

Respondent .

DECISION AND ORDER

OSPI 172-89

* * * * *

STATEMENT OF THE CASE

This is an appeal of a decision of the Melstone School District No. 64-3 Board of Trustees to discontinue a bus route serving Appellant. This decision was appealed to the Musselshell County Transportation Committee, hereinafter "Committee." A meeting was held on May 8, 1989, and a decision rendered on June 26, 1989. The decision of the Committee was subsequently appealed to the State Superintendent.

DECISION AND ORDER

This matter is remanded to the Committee for hearing in compliance with the statutes and rules governing an appeal of a transportation decision of a board of trustees.

The pertinent statute is found in Section 20-10-132, MCA, which provides in pari materia:

(1) It shall be the duty of the county transportation committee to:

... (d) conduct hearings to establish the facts of transportation controversies which have been appealed from the decision of the trustees and act on such appeals on the basis of the facts established at such

-
hearing.

1 Such fact-finding hearings are conducted pursuant to the
2 Rules of Procedure for All School Controversy found at
3 **10.6.101**, et seq., A.R.M. In particular, Rule **10.6.119(3)**
4 requires that "the committee shall meet and vote in open
5 session whether to grant or deny the appeal or request for
6 consideration. The members of the majority shall appoint one
7 member to prepare findings of fact, conclusions of law and
8 order which shall then be adopted at an open meeting of the
9 transportation committee and signed by all members of the
10 majority. Any member of the minority may put the reasons for
11 his/her vote in writing, and this shall be made part of the
12 record."

13 Jurisdiction of this Superintendent over county
14 transportation committee decisions is found in Section **20-10-**
15 **132(2)**, MCA, which states:

16 After a fact-finding hearing and decision on a
17 transportation controversy, the trustees or a patron of
18 the district may appeal such decision to the
19 superintendent of public instruction who shall render a
20 decision on the basis of the facts established at the
21 county transportation committee hearing.

22 This Superintendent has desire to make the administrative
23 process a burdensome one. However, it is her duty to see that
24 due process is given to all parties -- school districts and
25 patrons.

26 The record in this matter is sketchy at best. It consists
27 of very limited minutes of meetings held May 8 and June 26,
28 1989. In addition, there are transcriptions of two tapes --

one identified as from the May 8th meeting and the other
1 unidentified. The parties speaking are not identified and
2 there are innumerable gaps, inaudible portions and obvious
3 omissions in the transcriptions. There is no indication that
4 any testimony was given under oath or affirmation. The
5 transcription, such as it is, is not reviewed, identified or
6 certified. There is no findings of fact, conclusions of law
7 and order. Further, Respondent has made no response or filed
8 any briefs.

9 The procedure followed in this case failed to comply with
10 statutory requirements and did not produce a record sufficient
11 for this Superintendent to review pursuant to Sections 20-10-
12 132 and 20-3-107, MCA.

13 IT IS SO ORDERED.

14 DATED this 24 day of October, 1989.

15
16 Nancy Keenan
NANCY KEENAN
17 State Superintendent

18 CERTIFICATE OF SERVICE

19 THIS IS TO CERTIFY that on the 24th day of October, 1989, a
20 true and exact copy of the foregoing Decision and Order was
mailed, postage prepaid, to the following:

21 Margaret A. Reighard
22 County Superintendent
Musselshell Co. Crthse.
23 Box 157
Roundup, MT 59072

Teri Lynn Adams
Box 273
Melstone, MT 59054

24 Scott Campbell / JLB
25 Scott Campbell
Paralegal-Assistant